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Ex-Agent's Spy Case Ends in Mistrial as Jurors Are Unable to Agree

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LOS ANGELES, Nov. 6 — The espionage trial of Richard W. Miller, a former agent of the Federal Bureau of Investigation, ended in a mistrial today after the jurors said they were hopelessly deadlocked.

A mistrial was declared by Federal District Judge David V. Kenyon after the jury had deliberated for 14 days.

Mr. Miller, 48 years old, was the first bureau agent in history to be charged with espionage. The charge grew out of his activities with a Russian émigré couple who the Government contended were agents of the K.G.B., the Soviet intelligence service. Until shortly before his arrest on Oct. 2, 1984, he had been a counterespionage specialist in the bureau's Los Angeles office.

Mr. Miller faced a seven count Federal indictment that included charges of conspiracy to commit espionage, passage of secret national defense information to a foreign power, and bribery.

The jury was unable to reach a unanimous verdict on any of the counts, the jury foreman said today. The trial began Aug. 6.

The mistrial was declared after the jury twice today sent notes to Judge Kenyon saying it was unable to reach verdicts.

In their final note, at 4:35 P.M., the jury said, "We have done our best. We believe our judgments have been based on strong convictions that cannot be resolved."

Embarrassment to Bureau

It is up to the Government to decide whether to retry Mr. Miller on the charges. If the Government decides to go ahead, a new trial could be expected to begin early next year.

The trial testimony revealed a frustrating relationship between Mr. Miller, a man of admitted failings, and an organization that has prided itself on being the nation's finest investigative agency and what intelligence experts have called America's "first line of defense" against espionage.

Mr. Miller was arrested on Oct. 2, 1984, along with the émigré couple, Svetlana and Nikolay Ogorodnikov, and charged with conspiracy to commit espionage. The prosecution contended that the Ogorodnikovs were

part of a scheme by the K.G.B. to use Mr. Miller as a spy within the F.B.I.

The Government maintained that Mr. Miller had been recruited by Mrs. Ogorodnikov to funnel secret bureau documents to the Soviet Union in return for \$65,000, her sexual favors and a \$675 trench coat. A third Russian, Alexander Grishin, an official of the Soviet consulate in San Francisco, was named as a co-conspirator in the case but was not indicted. He later left the country, the Government has said.

Couple Pleaded Guilty

The Ogorodnikovs pleaded guilty to espionage in the case last June, two months after their trial began. Mrs. Ogorodnikov is serving an 18-year sentence and her husband an 8-year sentence.

The trials were conducted under an order imposed by Federal District Judge David V. Kenyon that barred lawyers from discussing the cases with reporters.

Neither the prosecution nor the defense called the Ogorodnikovs to testify at Mr. Miller's trial. Although Mr. Miller testified under a grant of immunity at the Russian couple's trial and at his own pretrial hearing, his lawyers, Joel Levine and Stanley Greenberg, did not call him to testify at his trial.

There was little dispute between the prosecution and the defense over Mr. Miller's actions, many of which had been recorded in a bureau investigation that began in September 1984.

What the jury had to decide was whether Mr. Miller had been spying for the Soviet Union, as the Government asserted, or making a bumbling effort, without the bureau's knowledge, to become a hero by infiltrating the K.G.B., as Mr. Miller's lawyers maintained.

Problem-Filled Career

The trial disclosed that after Mr. Miller joined the bureau in 1964 his performance as an agent was marred by poor job ratings from his superiors and a chronic problem of overweight, for which he was once suspended for two weeks.

His performance was also hampered by his seeming inability to cope with marital and family problems and financial pressures, testimony showed. After his arrest, F.B.I. agents said they

had found out that he had sold bureau information to a private investigator.

But Mr. Miller's lawyers also introduced bureau personnel records showing that after the agent was censured his work would improve and he would receive commendations. The lawyers contended that Mr. Miller was attempting, through his contact with Mrs. Ogorodnikov, to follow an established pattern of trying to dramatically salvage his career.

In May 1984, Mr. Miller was contacted by Mrs. Ogorodnikov, who

prosecutors said was in frequent touch with Soviet officials. The prosecutors said she offered the agent a sexual relationship and then money to gain control over him.

Mrs. Ogorodnikov, prosecutors said, was under orders from K.G.B. officials in Moscow and San Francisco. They contended that she and her husband, a butcher who had expressed strong pro-Soviet views, had hoped to win permission to return to the Soviet Union because they had become disenchanted with life in America.